

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

U.S. BANK NATIONAL ASSOCIATION, :
AS TRUSTEE FOR RESIDENTIAL :
ASSET SECURITIES CORPORATION, :
HOME EQUITY MORTGAGE ASSET- :
BACKED PASS-THROUGH :
CERTIFICATES, SERIES 2005-KS11, :
: Plaintiff, :
v. : 3:18-CV-971
: (JUDGE MARIANI)
DONALD B. RICHELLE, :
: Defendant. :
:

ORDER

AND NOW, THIS 15th DAY OF MARCH, 2019, upon *de novo* review of
Magistrate Judge Schwab's Report and Recommendation ("R&R") (Doc. 15), IT IS
HEREBY ORDERED THAT:

1. *Pro se* Defendant's Objections (Doc. 16) are **OVERRULED**. *Pro se* Defendant's
arguments do not vitiate the well-grounded findings in the R&R that this Court does
not have original jurisdiction over this action such that removal would be proper. This
state court mortgage foreclosure action was brought under Pennsylvania law. No
federal question is presented which would provide a basis for federal question
jurisdiction. *Pro se* Defendant's contention that Plaintiff's actions in seeking
foreclosure implicate due process under the Constitution does not transform this
action into one based on federal question jurisdiction, as it is the Plaintiff's "statement

of his own cause of action" that determines whether the action is brought under federal law. (Doc. 15 at 4 (quoting *Vaden v. Discover Bank*, 556 U.S. 49, 60 (2009)). And *pro se* Defendant is a resident of Pennsylvania, making it improper to remove this case solely based on diversity jurisdiction under 28 U.S.C. § 1441(b)(2).

2. The R&R (Doc. 15) is **ADOPTED** for the reasons set forth therein.
3. Plaintiff's motion for remand to the Court of Common Pleas of Luzerne County (Doc. 4) is **GRANTED**. The above-captioned matter is **REMANDED** to the Court of Common Pleas of Luzerne County.
4. *Pro se* Defendant's motion to dismiss (Doc. 3) is **DENIED**.
5. Plaintiff's motion for an extension of time to respond to *pro se* Defendant's motion to dismiss (Doc. 6) is **DENIED AS MOOT**.
6. The Clerk of Court is directed to **CLOSE** the case.



Robert D. Mariani
United States District Judge